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TITLE 80 STATE FAIR COMMISSION

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## Final Rule

LSA Document #07-587(F)

## DIGEST

Amends [80 IAC 1-5-10](#) concerning contract dollar amounts the executive director must approve. Adds [80 IAC 1-8-1.1](#) concerning finality of determination. Amends [80 IAC 2-2-3](#) concerning dollar amounts of commission works projects required to comply with [IC 5-16-1](#) and [IC 5-16-7](#). Amends [80 IAC 2-5-2](#) and [80 IAC 2-5-3](#) concerning dollar amounts and method of commission works project awards. Amends [80 IAC 2-5-4](#) concerning commission works projects performed by employees. Amends [80 IAC 2-8-1](#) concerning cost of commission works projects requiring payment of prevailing wage scales. Adds [80 IAC 3-1-1.1](#) to define property and worthless property. Amends [80 IAC 3-1-2](#) concerning disposal of property. Amends [80 IAC 4-2-2](#) concerning speed limit at the fairgrounds. Amends [80 IAC 4-2-3](#) concerning areas in no parking zones. Amends [80 IAC 4-2-4](#) concerning access to restricted areas and designated parking areas. Amends [80 IAC 4-2-6](#) concerning signage for speed limits, designated parking areas, and improperly parked cars. Amends [80 IAC 4-3-4](#) concerning operation of motorized carts. Amends [80 IAC 4-3-5](#) concerning drivers' licenses required for operating a motorized cart. Adds [80 IAC 5.1-1-1](#) concerning the commission following rules established by [42 IAC 1](#). Makes other numerous changes in the rules concerning small and special procurements. Makes numerous technical changes. Repeals [80 IAC 2-5-11](#) and [80 IAC 5](#). Effective 30 days after filing with the Publisher.

[80 IAC 1-1-3](#); [80 IAC 1-3-2](#); [80 IAC 1-4-5](#); [80 IAC 1-5-2](#); [80 IAC 1-5-4](#); [80 IAC 1-5-5](#); [80 IAC 1-5-7](#); [80 IAC 1-5-9](#); [80 IAC 1-5-10](#); [80 IAC 1-5-12](#); [80 IAC 1-6-1](#); [80 IAC 1-8-1.1](#); [80 IAC 2-1-8](#); [80 IAC 2-2-3](#); [80 IAC 2-2-7](#); [80 IAC 2-3-1](#); [80 IAC 2-5-1](#); [80 IAC 2-5-2](#); [80 IAC 2-5-3](#); [80 IAC 2-5-4](#); [80 IAC 2-5-5](#); [80 IAC 2-5-6](#); [80 IAC 2-5-7](#); [80 IAC 2-5-8](#); [80 IAC 2-5-9](#); [80 IAC 2-5-10](#); [80 IAC 2-5-11](#); [80 IAC 2-6-1](#); [80 IAC 2-7-1](#); [80 IAC 2-7-2](#); [80 IAC 2-7-6](#); [80 IAC 2-7-7](#); [80 IAC 2-7-10](#); [80 IAC 2-8-1](#); [80 IAC 3-1-1.1](#); [80 IAC 3-1-2](#); [80 IAC 4-1-4](#); [80 IAC 4-2-2](#); [80 IAC 4-2-3](#); [80 IAC 4-2-4](#); [80 IAC 4-2-5](#); [80 IAC 4-2-6](#); [80 IAC 4-3-3](#); [80 IAC 4-3-4](#); [80 IAC 4-3-5](#); [80 IAC 5](#); [80 IAC 5.1](#)

SECTION 1. [80 IAC 1-1-3](#) IS AMENDED TO READ AS FOLLOWS:

**[80 IAC 1-1-3](#) "Change order" defined****Authority:** [IC 15-1.5-2-8](#)**Affected:** [IC 15-1.5-2](#)

Sec. 3. "Change order" means a written order that:

- (1) is signed by the ~~procurement officer~~ **executive director or his or her designated representative**; and
- (2) directs the contractor to make changes, which the changes clause of the contract authorizes the ~~procurement officer~~ **executive director or his or her designated representative** to order without the consent of the contractor.

(State Fair Commission; [80 IAC 1-1-3](#); filed Nov 27, 1991, 2:00 p.m.: 15 IR 430; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: [20071024-IR-080070451RFA](#); filed Mar 18, 2008, 2:19 p.m.: [20080416-IR-080070587FRA](#))

SECTION 2. [80 IAC 1-3-2](#) IS AMENDED TO READ AS FOLLOWS:

**[80 IAC 1-3-2](#) Procurement department****Authority:** [IC 15-1.5-2-8](#); [IC 15-1.5-3-8](#)**Affected:** [IC 15-1.5-2](#)

Sec. 2. (a) There is established within the commission a procurement department. All procurement functions retained by each ~~senior manager~~ **director** will be conducted in conformance with this article. Except as otherwise specifically provided in this article, the procurement department shall do the following:

- (1) Procure or supervise the procurement of all supplies for the commission and establish internal policy for separate functions of the ~~senior managers~~ **directors**.

- (2) Exercise general supervision over all inventories of supplies retained by the commission.
- (3) Establish and maintain programs for the inspection, testing, and acceptance of supplies procured under this article.

(b) The procurement department may enter into agreements with the procurement division of the state of Indiana to make procurements through an established quantity procurement agreement (QPA) and the federal General Services Agency (GSA) processes, where applicable and cost effective.

*(State Fair Commission; [80 IAC 1-3-2](#); filed Nov 27, 1991, 2:00 p.m.: 15 IR 433; filed Aug 8, 1995, 12:00 p.m.: 18 IR 3367; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: [20071024-IR-080070451RFA](#); filed Mar 18, 2008, 2:19 p.m.: [20080416-IR-080070587FRA](#))*

SECTION 3. [80 IAC 1-4-5](#) IS AMENDED TO READ AS FOLLOWS:

**[80 IAC 1-4-5](#) Disposable plastic products; procurement**

**Authority:** [IC 15-1.5-2-8](#)

**Affected:** [IC 15-1.5-2](#)

Sec. 5. (a) As used in this section, "biodegradation" means the conversion of all constituents of **a**:

- (1) a plastic; or
- (2) a hybrid material containing plastic as a major component;

into miscellaneous component parts by the microbial action of fungi and bacteria upon natural materials such as cornstarch.

(b) As used in this section, "chemical degradation" means the conversion of all constituents of **a**:

- (1) a plastic; or
- (2) a hybrid material containing plastic as a major component;

into miscellaneous component parts through the chemical reactions of additives such as auto-oxidants and the environment with the plastic.

(c) As used in this section, "degradable" means capable of being broken down by one (1) or more of the following degradation processes:

- (1) Biodegradation.
- (2) Photodegradation.
- (3) Chemical degradation.

(d) As used in this section, "photodegradation" means the conversion of all constituents of **a**:

- (1) a plastic; or
- (2) a hybrid material containing plastic as a major component;

into miscellaneous component parts through the physical breakdown of the plastic product upon sufficient exposure to ultraviolet radiation.

(e) As used in this section, "refuse bag" means a ~~disposable~~ **disposable** plastic bag that is designed to hold:

- (1) garbage;
- (2) grass clippings;
- (3) fallen leaves; or
- (4) other refuse.

The term includes a disposable plastic bag ~~this~~ **that** is designed to be placed inside and to catch the refuse deposited in a rigid refuse receptacle.

(f) When procuring any disposable plastic products, including refuse bags, the procurement department shall procure disposable plastic products that are degradable if:

- (1) degradable products are available at the time of the procurement;
- (2) it is economically feasible to procure degradable products;
- (3) the procurement of degradable products is not inappropriate because of:
  - (A) federal regulations or policy in matters involving the federal government; or

- (B) the special requirements of scientific uses;
- (4) the degradable product to be procured is economically and functionally the equivalent of disposable plastic products that:
  - (A) meet applicable specifications; and
  - (B) are not degradable; and
- (5) the degradable product to be procured is, in the determination of the ~~executive director~~, **procurement officer**, a type of product for which the use of degradable materials is appropriate based upon:
  - (A) the functional use of the product; and
  - (B) whether the product will probably be recycled or disposed of in a final disposal facility.

(State Fair Commission; [80 IAC 1-4-5](#); filed Nov 27, 1991, 2:00 p.m.: 15 IR 434; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: [20071024-IR-080070451RFA](#); filed Mar 18, 2008, 2:19 p.m.: [20080416-IR-080070587FRA](#))

SECTION 4. [80 IAC 1-5-2](#) IS AMENDED TO READ AS FOLLOWS:

#### **[80 IAC 1-5-2](#) Contracts for supplies**

**Authority:** [IC 15-1.5-2-8](#); [IC 15-1.5-3-8](#)

**Affected:** [IC 15-1.5-2](#)

Sec. 2. Contracts for supplies ~~which~~ **that** exceed ten thousand dollars (\$10,000) but do not exceed seventy-five thousand dollars (\$75,000) must be awarded under one (1) of the following:

- (1) Section 3 of this rule.
- (2) Section 4 of this rule.
- (3) Section 5 of this rule.
- (4) Section 8 of this rule.
- (5) Section 9 of this rule.

The ~~executive director~~ **procurement officer** shall determine which method shall be used.

(State Fair Commission; [80 IAC 1-5-2](#); filed Nov 27, 1991, 2:00 p.m.: 15 IR 435; filed Aug 8, 1995, 12:00 p.m.: 18 IR 3368; errata filed Sep 25, 1995, 3:00 p.m.: 19 IR 209; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: [20071024-IR-080070451RFA](#); filed Mar 18, 2008, 2:19 p.m.: [20080416-IR-080070587FRA](#))

SECTION 5. [80 IAC 1-5-4](#) IS AMENDED TO READ AS FOLLOWS:

#### **[80 IAC 1-5-4](#) Sealed bids (two step)**

**Authority:** [IC 15-1.5-2-8](#); [IC 15-1.5-3-8](#)

**Affected:** [IC 15-1.5-2](#)

Sec. 4. The ~~executive director~~ **procurement officer** may utilize a two (2) step sealed bid process by requiring that bidders initially submit unpriced sealed offers in response to an invitation to bid identical to that required in section 3 of this rule excepting those provisions that relate to price. Submission of priced sealed bids may then be restricted to only those offerors whose offer qualified under the criteria set forth in the original invitation.

(State Fair Commission; [80 IAC 1-5-4](#); filed Nov 27, 1991, 2:00 p.m.: 15 IR 436; filed Aug 8, 1995, 12:00 p.m.: 18 IR 3369; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: [20071024-IR-080070451RFA](#); filed Mar 18, 2008, 2:19 p.m.: [20080416-IR-080070587FRA](#))

SECTION 6. [80 IAC 1-5-5](#) IS AMENDED TO READ AS FOLLOWS:

#### **[80 IAC 1-5-5](#) Request for proposals**

**Authority:** [IC 15-1.5-2-8](#); [IC 15-1.5-3-8](#)

**Affected:** [IC 15-1.5-2](#)

Sec. 5. (a) The following procedure shall be followed by the procurement department in awarding contracts by request for proposals:

- (1) Proposals shall be solicited through a request for proposals, which must include the following:
  - (A) The factors or criteria that will be used in evaluating the proposals, including any requirement under section 14 of this rule.
  - (B) A statement concerning the relative importance of price and the other evaluation factors.
  - (C) A statement concerning whether the proposal must be accompanied by a certified check or other evidence of financial responsibility, which may be imposed in accordance with this article.
  - (D) A statement concerning whether discussions may be conducted with responsible offerors, who submit proposals determined to be reasonably susceptible of being selected for award, for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements.
- (2) Public notice shall be given in the manner required in section 12 of this rule.
- (3) A register of proposals shall be prepared and must be open for public inspection after contract award. The register of proposals must contain the following:
  - (A) A copy of the request for proposals.
  - (B) The listing of all proposals received, including the following:
    - (i) The names and addresses of all offerors.
    - (ii) The dollar amount of each offer.
    - (iii) The name of the successful offeror and the dollar amount of the offer.
  - (C) The basis on which the award was made.
  - (D) The entire contents of the contract file except for proprietary information, which may have been included with an offer, such as:
    - (i) trade secrets;
    - (ii) manufacturing processes; and
    - (iii) financial information;which **that** was not required to be made available for public inspection by the terms of the request for proposals itself.
- (4) If provided in the request for proposals or determined by the ~~executive director~~ **procurement officer** to be desirable, discussions may be conducted with responsible offerors, who submit proposals determined to be reasonably susceptible of being selected for award, for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements or correcting errors or omissions in the proposal.
- (5) Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the commission, taking into consideration price and other evaluation factors set forth in the request for proposals.

(b) Offerors must be accorded fair and equal treatment with respect to any opportunity for discussion and revisions of proposals. In conducting discussions, there must be no disclosure of any information derived from proposals submitted by competing offerors.

(c) The only factors or criteria that may be used in the evaluation of proposals are those specified in the request for the proposals.

*(State Fair Commission; [80 IAC 1-5-5](#); filed Nov 27, 1991, 2:00 p.m.: 15 IR 436; errata, 15 IR 1024; filed Aug 8, 1995, 12:00 p.m.: 18 IR 3370; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: [20071024-IR-080070451RFA](#); filed Mar 18, 2008, 2:19 p.m.: [20080416-IR-080070587FRA](#))*

SECTION 7. [80 IAC 1-5-7](#) IS AMENDED TO READ AS FOLLOWS:

#### **[80 IAC 1-5-7](#) Small purchases**

**Authority:** [IC 15-1.5-2-8](#); [IC 15-1.5-3-8](#)

**Affected:** [IC 15-1.5-2](#)

Sec. 7. (a) A procurement with an estimated cost of ~~five thousand dollars (\$5,000)~~ and not exceeding ten thousand dollars (\$10,000) may be made under small purchases procedures outlined in this section.

- (b) Small purchases, as defined under subsection (a), shall be processed under the following provisions:
- (1) ~~Prior to~~ **Before** award of purchase, quotations for the desired supplies, including purchase description,

- price or** prices, and terms or conditions, as appropriate, must be solicited from ~~no less~~ **not fewer** than three (3) potential bidders of ~~such~~ **the** supplies.
- (2) The appropriate ~~senior manager~~ **director** or procurement department shall award a contract to the bidder:
- (A) submitting the lowest bid price that meets the specifications; and
  - (B) who is responsible and has the ability to comply with all of the provisions of the contract.

(c) Corrections or withdrawal of inadvertently erroneous bids shall be permitted ~~prior to~~ **before** award of any bid. However, upon receipt of a proposed bid, any changes in bid prices or other provisions of bids prejudicial to the interest of the commission or fair competition shall:

- (1) not be permitted; and ~~shall~~
- (2) be cause for the disqualification of that bid.

(d) If a bidder inserts contract terms or bids on items not specified in the quotation or includes additional unsolicited items, the procurement department shall treat the additional material as a proposal for addition to the contract and may:

- (1) find the bidder to be nonresponsive;
- (2) permit the bidder to withdraw the proposed additions to the contract in order to meet items specified in subsection (b)(2); or
- (3) accept any of the proposed additions to the contract subject to subsection (e).

(e) The procurement department or ~~senior manager~~ **director** may not accept proposed additions to the contract that are prejudicial to the interests of the commission or fair competition.

(f) The procurement department or ~~senior manager~~ **director** may reject all quotations received.

(g) If no responsive and responsible quotations are received for an item, the procurement department is authorized to procure the item on the open market without further invitations for quotes.

(h) Procurement requirements may not be artificially divided so as to constitute a small purchase under this section.

*(State Fair Commission; [80 IAC 1-5-7](#); filed Nov 27, 1991, 2:00 p.m.: 15 IR 438; filed Aug 8, 1995, 12:00 p.m.: 18 IR 3370; errata filed Sep 25, 1995, 3:00 p.m.: 19 IR 209; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: [20071024-IR-080070451RFA](#); filed Mar 18, 2008, 2:19 p.m.: [20080416-IR-080070587FRA](#))*

SECTION 8. [80 IAC 1-5-9](#) IS AMENDED TO READ AS FOLLOWS:

### **[80 IAC 1-5-9](#) Special procurements**

**Authority:** [IC 15-1.5-2-8](#); [IC 15-1.5-3-8](#)

**Affected:** [IC 4-13-1-17](#); [IC 15-1.5-2](#)

Sec. 9. (a) Notwithstanding any other provision of this article, the executive director may make, or authorize the procurement department to make, special procurements:

- (1) when there exists, under emergency conditions, a threat to public health, welfare, or safety;
- (2) when there exists a unique opportunity to obtain supplies at a substantial savings to the commission;
- (3) when the market structure requires the commission to inspect and bid on the supplies to be procured;
- (4) for the procurement of data processing contracts or license agreements for:
  - (A) software programs; or
  - (B) supplies, when only one (1) source meets the procurement department's or ~~senior manager's~~ **director's** reasonable requirements;
- (5) for contracts for insurance authorized under [IC 4-13-1-17](#) if the annual premium does not exceed five thousand dollars (\$5,000);
- (6) when:
  - (A) the compatibility of equipment, accessories, or replacement parts is a substantial consideration in the procurement; and

- (B) only one (1) source meets the using department's reasonable requirements;
- (7) when procurement of the required supplies under another section of this rule would seriously impair the function of the using department;
- (8) when the procurement department has:
  - (A) solicited for a procurement under another section of this rule; and has
  - (B) not received a responsive offer; or
- ~~(9) when the procurement is estimated to cost more than one hundred dollars (\$100) and less than five thousand dollars (\$5,000); or~~
- ~~(10) (9) when the time periods for performance as determined by the executive director would be seriously impaired by bidding, so long as at least two (2) price quotes are obtained.~~

(b) Special procurements must be made with such competition as is practicable under the circumstances.

(c) A written determination of the basis for the special procurement and for the selection of the particular contractor must be included in the contract file. Contract records for special procurements:

- (1) shall be maintained in a separate file in the procurement department; and
- (2) are subject to annual audit by the state board of accounts.

*(State Fair Commission; 80 IAC 1-5-9; filed Nov 27, 1991, 2:00 p.m.: 15 IR 439; filed Aug 8, 1995, 12:00 p.m.: 18 IR 3371; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: 20071024-IR-080070451RFA; filed Mar 18, 2008, 2:19 p.m.: 20080416-IR-080070587FRA)*

SECTION 9. [80 IAC 1-5-10](#) IS AMENDED TO READ AS FOLLOWS:

#### **[80 IAC 1-5-10](#) Approval of contracts**

**Authority:** [IC 15-1.5-2-8](#); [IC 15-1.5-3-8](#)

**Affected:** [IC 15-1.5-2](#)

Sec. 10. (a) The executive director, on behalf of the commission, ~~may~~ **shall** approve contracts that **are**:

- (1) ~~are less than ten~~ **fifty** thousand dollars ~~(\$10,000); (\$50,000);~~ or
- (2) ~~are~~ special procurements meeting the terms of section 9(a)(1) or 9(a)(7) of this rule, where expediency and timeliness are essential.

(b) ~~The executive director, jointly with the chairman of the commission, shall approve~~ Contracts that:

- (1) have a value in excess of ten thousand dollars (\$10,000); ~~or more;~~ and
- (2) do not exceed fifty thousand dollars (\$50,000);

**are** subject to the review and approval of the ~~attorney general's office~~ **of attorney general** in regards to form and legality.

(c) The commission shall approve contracts that:

- (1) exceed fifty thousand dollars (\$50,000); and
- (2) are approved by the ~~attorney general's office~~ **of attorney general** in regards to form and legality.

*(State Fair Commission; 80 IAC 1-5-10; filed Nov 27, 1991, 2:00 p.m.: 15 IR 439; errata, 15 IR 1024; filed Aug 8, 1995, 12:00 p.m.: 18 IR 3372; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: 20071024-IR-080070451RFA; filed Mar 18, 2008, 2:19 p.m.: 20080416-IR-080070587FRA)*

SECTION 10. [80 IAC 1-5-12](#) IS AMENDED TO READ AS FOLLOWS:

#### **[80 IAC 1-5-12](#) Manner of giving notice**

**Authority:** [IC 15-1.5-2-8](#); [IC 15-1.5-3-8](#)

**Affected:** [IC 15-1.5-2](#)

Sec. 12. (a) Whenever public notice is required by applicable sections of this rule, the notice shall be given in the manner prescribed by this section.



(b) The minimum number of notices shall be given by publication according to the following schedule:

(1) If the ultimate expenditure involved in a procurement is estimated to exceed seventy-five thousand dollars (\$75,000), a notice shall be published at least once each week for two (2) successive weeks.

(2) If the ultimate expenditure involved in a procurement is estimated to be twenty-five thousand dollars (\$25,000) or more, but not to exceed seventy-five thousand dollars (\$75,000), a notice shall be published at least one (1) time.

(3) If the ultimate expenditure involved in a procurement is estimated to be less than twenty-five thousand dollars (\$25,000), publication of notice is not required.

(4) The ~~executive director~~ **procurement officer** may provide for the publication of additional notices, even if no publication is required by this section.

(c) Whenever publication of notice is required by this section, the notice shall be published in one (1) newspaper of general circulation in Marion County, Indiana. If any of the supplies being procured are for the specific use of the commission and ~~is~~ **are** located outside of Marion County, Indiana, the notice may also be published in one (1) or more newspapers of general circulation in the area in which the supplies are to be used. The ~~executive director~~ **procurement officer** may designate additional newspapers for the publication of notice according to the nature of the procurement.

(d) In addition to the publication requirements of this section, notice shall be given in the following manner whenever the ultimate expenditure involved in a procurement is estimated to exceed twenty-five thousand dollars (\$25,000):

(1) The procurement department ~~or senior manager~~ shall cause issuance of notices, invitations to bid, requests for offers, or requests for proposals by mail to prospective bidders or offerors known to or made known to him ~~or her~~. However, failure to give personal notice to a particular bidder or offeror does not invalidate a procurement under this rule.

(2) The procurement department ~~or senior manager~~ shall post notices on a public bulletin board in the procurement department office.

(e) The procurement department ~~or senior manager~~ shall schedule all notices given under this section so as to provide a reasonable amount of time for preparation and submission of responses after notification. The period between ~~the~~:

(1) ~~the~~ last publication, mailing, or posting of notices; and

(2) ~~the~~ final date set for submitting bids, offers, or proposals;

may not be less than five (5) normal business days.

*(State Fair Commission; 80 IAC 1-5-12; filed Nov 27, 1991, 2:00 p.m.: 15 IR 440; filed Aug 8, 1995, 12:00 p.m.: 18 IR 3373; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: 20071024-IR-080070451RFA; filed Mar 18, 2008, 2:19 p.m.: 20080416-IR-080070587FRA)*

SECTION 11. [80 IAC 1-6-1](#) IS AMENDED TO READ AS FOLLOWS:

#### **[80 IAC 1-6-1](#) Determination of nonresponsibility**

**Authority:** [IC 15-1.5-2-8](#)

**Affected:** [IC 15-1.5-2](#)

Sec. 1. (a) If a bidder or offeror is not a responsible bidder or offeror, that determination shall be made in writing by the ~~executive director~~ **procurement officer**.

(b) If a bidder or offeror fails to provide information required by the procurement department or the commission concerning a determination of whether that bidder or offeror is a responsible bidder or offeror, that bidder or offeror may not be considered a responsible bidder or offeror for the purposes of this rule.

*(State Fair Commission; 80 IAC 1-6-1; filed Nov 27, 1991, 2:00 p.m.: 15 IR 441; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: 20071024-IR-080070451RFA; filed Mar 18, 2008, 2:19 p.m.: 20080416-IR-080070587FRA)*

SECTION 12. [80 IAC 1-8-1.1](#) IS ADDED TO READ AS FOLLOWS:

**[80 IAC 1-8-1.1](#) Finality of determinations; judicial review**

Authority: [IC 15-1.5-2-8](#)

Affected: [IC 15-1.5-2](#)

**Sec. 1.1. The determinations required by this article are final and conclusive, subject to judicial review.**

(State Fair Commission; [80 IAC 1-8-1.1](#); filed Mar 18, 2008, 2:19 p.m.: [20080416-IR-080070587FRA](#))

SECTION 13. [80 IAC 2-1-8](#) IS AMENDED TO READ AS FOLLOWS:

**[80 IAC 2-1-8](#) "Escrowed principal" defined**

Authority: [IC 15-1.5-2-8](#)

Affected: [IC 15-1.5-2](#)

Sec. 8. "Escrowed principal" means the value of all cash, securities, or other property ~~place~~ **placed** in an escrow account by the commission or a contractor as a retainage on a commission works contract.

(State Fair Commission; [80 IAC 2-1-8](#); filed Nov 27, 1991, 2:00 p.m.: 15 IR 446; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: [20071024-IR-080070451RFA](#); filed Mar 18, 2008, 2:19 p.m.: [20080416-IR-080070587FRA](#))

SECTION 14. [80 IAC 2-2-3](#) IS AMENDED TO READ AS FOLLOWS:

**[80 IAC 2-2-3](#) Compliance with certain statutes**

Authority: [IC 15-1.5-2-8](#)

Affected: [IC 5-16](#); [IC 15-1.5-2](#)

Sec. 3. (a) The commission shall comply with this article and the following statutes in the administration of commission works contracts:

(1) [IC 5-16-1](#) if the estimated cost of the commission works project is one hundred fifty thousand dollars (\$150,000) or more.

(2) [IC 5-16-3](#).

(3) [IC 5-16-5](#).

(4) [IC 5-16-5.5](#).

(5) ~~[IC 5-16-6](#)~~ [IC 5-16-6](#).

(6) [IC 5-16-6.5](#).

(7) [IC 5-16-7](#) if the estimated cost of the commission works project is ~~fifteen~~ **one hundred fifty** thousand dollars (~~\$15,000~~) (**\$150,000**) or more.

(8) [IC 5-16-8](#).

(9) [IC 5-16-9](#).

(10) [IC 5-16-10](#).

(11) [IC 5-16-11](#).

(b) The following ~~statutes do~~ **statute does** not apply to commission works, commission works contracts, or professional service contracts covered under this article:

~~(1) [IC 5-16-2](#).~~

~~(2) [IC 5-16-11-2](#)~~

(State Fair Commission; [80 IAC 2-2-3](#); filed Nov 27, 1991, 2:00 p.m.: 15 IR 447; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: [20071024-IR-080070451RFA](#); filed Mar 18, 2008, 2:19 p.m.: [20080416-IR-080070587FRA](#))



SECTION 15. [80 IAC 2-2-7](#) IS AMENDED TO READ AS FOLLOWS:

**[80 IAC 2-2-7](#) Public records; inspection**

**Authority:** [IC 15-1.5-2-8](#)

**Affected:** [IC 5-14-3](#); [IC 15-1.5-2](#)

Sec. 7. Except as otherwise **provided** by law, records of the commission relative to this article are public records subject to public inspection under [IC 5-14-3](#).

(State Fair Commission; [80 IAC 2-2-7](#); filed Nov 27, 1991, 2:00 p.m.: 15 IR 447; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: [20071024-IR-080070451RFA](#); filed Mar 18, 2008, 2:19 p.m.: [20080416-IR-080070587FRA](#))

SECTION 16. [80 IAC 2-3-1](#) IS AMENDED TO READ AS FOLLOWS:

**[80 IAC 2-3-1](#) Duties of the commission**

**Authority:** [IC 15-1.5-2-8](#)

**Affected:** [IC 4-22-2](#); [IC 15-1.5-2](#)

Sec. 1. (a) Except as otherwise provided, the commission shall do the following:

- (1) ~~May~~ Adopt rules under [IC 4-22-2](#) necessary to carry out this article.
- (2) Consider and decide matters of policy under this article.
- (3) Enforce this article and the rules adopted under it.
- (4) Contract for professional consulting services to carry out the provisions of this article.

(b) The consulting engineer of the commission, and on behalf of the commission, shall do the following:

- (1) Prepare or supervise preparation of contract documents for commission works projects.
- (2) Approve contract documents for commission works projects.
- (3) Advertise for bids for commission works contracts.
- (4) Recommend to the commission and executive director award of commission works contracts.
- (5) Supervise ~~and/or~~ **or** cause inspection of, **or both**, all work relating to commission works projects.
- (6) Recommend to the executive director and the commission approval of any necessary lawful changes in contract documents relating to a commission works contract that has been awarded.
- (7) ~~Approved~~ **Approve** or reject estimates for payment.
- (8) Accept or reject a commission works project, subject to the review and approval of the executive director or the commission, as applicable.

(c) Except as otherwise provided, whenever ~~in the part~~ a duty is specified or authority is granted that relates to the estimated dollar value of a commission works project, the executive director shall make the determination of the value of the project. ~~Such~~ **The** determinations of the executive director **is are**:

- (1) final and conclusive; and is
- (2) the amount against ~~with~~ **which** the existence of the duty or the authority shall be determined; even if it is later found that the determination of the executive director was erroneous.

(State Fair Commission; [80 IAC 2-3-1](#); filed Nov 27, 1991, 2:00 p.m.: 15 IR 447; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: [20071024-IR-080070451RFA](#); filed Mar 18, 2008, 2:19 p.m.: [20080416-IR-080070587FRA](#))

SECTION 17. [80 IAC 2-5-1](#) IS AMENDED TO READ AS FOLLOWS:

**[80 IAC 2-5-1](#) Method of awarding contracts; approval of contract documents**

**Authority:** [IC 15-1.5-2-8](#)

**Affected:** [IC 15-1.5-2](#)

Sec. 1. (a) Commission works contracts must be awarded under section 2 of this ~~chapter~~ **rule** unless another method is authorized under this ~~chapter~~ **rule**.

(b) A duly licensed architect or engineer must approve the contract documents for a commission works project. A consulting engineer may be retained by the commission by professional services contract for the purpose of assisting in the administration of the provisions of this article.

(State Fair Commission; [80 IAC 2-5-1](#); filed Nov 27, 1991, 2:00 p.m.: 15 IR 448; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: [20071024-IR-080070451RFA](#); filed Mar 18, 2008, 2:19 p.m.: [20080416-IR-080070587FRA](#))

SECTION 18. [80 IAC 2-5-2](#) IS AMENDED TO READ AS FOLLOWS:

**[80 IAC 2-5-2](#) Projects costing \$150,000 or more; bidding procedure; records**

**Authority:** [IC 15-1.5-2-8](#)

**Affected:** [IC 5-16-1-2](#); [IC 15-1.5-2](#); [IC 30-4-1-1](#)

Sec. 2. (a) Except as provided by this rule, if the estimated cost of a commission works project is at least ~~twenty-five~~ **one hundred fifty** thousand dollars (~~\$25,000~~), **(\$150,000)**, the commission shall award a contract for the project based on competitive bids.

(b) If the estimated cost of a commission works project is at least ~~twenty-five~~ **one hundred fifty** thousand dollars (~~\$25,000~~), **(\$150,000)**, the commission shall:

- (1) cause development of contract documents for a commission works contract; and
- (2) keep the contract documents on file in its offices so that they may be inspected by contractors and members of the public.

(c) The commission shall direct the advertisement for bids under section 7 of this rule. The executive director, with the review and approval of the commission, shall award a contract under [80 IAC 2-6](#).

(d) **As a part of the bid**, a contractor shall submit under oath a financial statement ~~as a part of the bid which~~ **that** complies with the requirements of [IC 5-16-1-2](#).

(e) The commission **or** executive director, upon the written recommendation of the consulting engineer of the commission, shall reject the bid of a contractor if:

(1) the:

(A) estimated cost of the commission works project is one hundred thousand dollars (\$100,000) or more; and ~~the~~

(B) contractor is not qualified under [80 IAC 2-4](#);

(2) the:

(A) estimated cost of the commission works project is less than one hundred thousand dollars (\$100,000); and ~~the~~

(B) executive director makes a written determination, based upon information provided under ~~subsections~~ **subsection (d) through (e), and this subsection**, that the contractor is not qualified to perform the commission works contract;

(3) the contractor has:

(A) failed to perform a previous contract with the commission satisfactorily **based upon a written determination by the executive director**; and has

(B) submitted the bid during the period of suspension imposed by the executive director (~~the failure of the contractor to perform a contract satisfactorily must be based upon a written determination by the executive director~~); **or**

(4) the contractor has not complied with:

(A) a rule adopted under this article and the rule specifies that failure to comply with it is a ground for rejection of a bid; or

~~(5) the contractor has not complied with~~ **(B) any requirement under subsection (g).**

(f) The commission shall keep a record of all bids. The state board of accounts shall approve the form of this record, and the record must include at least the following information:

- (1) The name of each contractor.
- (2) The amount bid by each contractor.
- (3) The name of the contractor making the lowest bid.
- (4) The name of the contractor to whom the contract was awarded.
- (5) The reason the contract was awarded to a contractor other than the lowest bidder, if applicable.

(g) ~~Identification of each beneficiary and empowered settlor.~~ This ~~subsection~~ **subsection** applies whenever a contract is awarded by competitive sealed bidding or acceptance of quotations. A bid or quotation submitted by a trust (as defined in [IC 30-4-1-1](#)(a)) must identify each **of the following**:

- (1) **The** beneficiary of the trust.
- (2) **The** settlor empowered to revoke or modify the trust.

(State Fair Commission; [80 IAC 2-5-2](#); filed Nov 27, 1991, 2:00 p.m.: 15 IR 448; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: [20071024-IR-080070451RFA](#); filed Mar 18, 2008, 2:19 p.m.: [20080416-IR-080070587FRA](#))

SECTION 19. [80 IAC 2-5-3](#) IS AMENDED TO READ AS FOLLOWS:

**[80 IAC 2-5-3](#) Projects costing less than \$150,000; quotations from contractors; award**

**Authority:** [IC 15-1.5-2-8](#)

**Affected:** [IC 5-16-1-3](#); [IC 15-1.5-2](#)

Sec. 3. (a) If the estimated cost of a commission works project is less than ~~twenty-five~~ **one hundred fifty** thousand dollars (~~\$25,000~~), (**\$150,000**), the executive director, with the review and approval of the commission, may award a commission works contract either under:

- (1) section 2 of this rule; or ~~under~~
- (2) this section;

at the discretion of the executive director.

(b) If the executive director awards a contract under this section, the commission shall:

- (1) publish notice in accordance with [IC 5-16-1-3](#)(a); or
- (2) require the invitation of quotations from at least three (3) contractors known to them to deal in the work required to be done in accordance with [IC 5-16-1-3](#)(b)(2).

Failure to receive three (3) quotations shall not prevent an award from being made.

(c) Quotations given by a contractor under this section:

- (1) must be in writing and sealed in an envelope;
- (2) shall be considered firm; and
- (3) may be the basis upon which the executive director awards a commission works contract.

(d) The commission shall award a contract:

- (1) to the lowest responsible and responsive contractor; and
- (2) in accordance with any requirements imposed under ~~subsection~~ **section 2(g)** of this ~~chapter~~ **rule**.

(State Fair Commission; [80 IAC 2-5-3](#); filed Nov 27, 1991, 2:00 p.m.: 15 IR 449; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: [20071024-IR-080070451RFA](#); filed Mar 18, 2008, 2:19 p.m.: [20080416-IR-080070587FRA](#))

SECTION 20. [80 IAC 2-5-4](#) IS AMENDED TO READ AS FOLLOWS:

**[80 IAC 2-5-4](#) Performance of commission works projects by employees of the commission**

**Authority:** [IC 15-1.5-2-8](#)

**Affected:** [IC 15-1.5-2](#)

Sec. 4. If the estimated cost of a commission works project is less than ~~twenty-five~~ **one hundred fifty** thousand dollars (~~\$25,000~~), **such (\$150,000), the** projects may be performed by appropriate employees of the commission without awarding a commission works contract under section 2 of this rule.

(State Fair Commission; [80 IAC 2-5-4](#); filed Nov 27, 1991, 2:00 p.m.: 15 IR 449; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: [20071024-IR-080070451RFA](#); filed Mar 18, 2008, 2:19 p.m.: [20080416-IR-080070587FRA](#))

SECTION 21. [80 IAC 2-5-5](#) IS AMENDED TO READ AS FOLLOWS:

**[80 IAC 2-5-5](#) Emergency conditions; quotations from contractors; awards**

**Authority:** [IC 15-1.5-2-8](#)

**Affected:** [IC 5-16-1-1.6](#); [IC 15-1.5-2](#)

Sec. 5. (a) When the commission, in accordance with [IC 5-16-1-1.6](#), makes a written determination that an emergency condition:

(1) exists due to:

(A) a fire;

(B) a flood;

(C) a windstorm;

(D) a casualty; or ~~other~~

(E) ~~another~~ condition (including mechanical failure of any part of a building or structure); and ~~the emergency condition~~

(2) endangers:

(A) the health, safety, or welfare of the public; or

(B) necessary operations;

the executive director may act to repair any damage caused by the emergency condition without awarding a commission works contract under section 2 of this rule.

(b) In the case of an emergency described in subsection (a), the commission may invite quotations from at least three (3) contractors known to the commission to deal in the work required to be done and record the same consistent with the requirements of ~~[IC 5-6-1-1.6](#)~~. [IC 5-16-1-1.6](#). Failure to receive three (3) quotations shall not prevent an award from being made.

(c) The commission shall keep a copy of the:

(1) executive director's determinations; and ~~the~~

(2) names of the contractors from whom quotations were invited;

in the appropriate files.

(d) The executive director shall award a contract to the lowest responsible and responsive contractor. However, the executive director may award a contract to a contractor not qualified under section 4 of this ~~chapter~~, **rule** if necessary to remedy the emergency condition.

(State Fair Commission; [80 IAC 2-5-5](#); filed Nov 27, 1991, 2:00 p.m.: 15 IR 450; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: [20071024-IR-080070451RFA](#); filed Mar 18, 2008, 2:19 p.m.: [20080416-IR-080070587FRA](#))

SECTION 22. [80 IAC 2-5-6](#) IS AMENDED TO READ AS FOLLOWS:

**[80 IAC 2-5-6](#) Land acquisition; professional services**

**Authority:** [IC 15-1.5-2-8](#)

**Affected:** [IC 15-1.5-2](#)

Sec. 6. (a) Competitive bids are not required for the acquisition of land or for professional services relating to

commission works projects. In awarding contracts for professional services relating to commission works projects, the executive director shall ~~submit~~ **submit** a recommendation to the commission, who shall, by majority vote, award a contract.

(b) In making a recommendation to the commission, the executive director shall consider only the competence and the qualifications of the persons offering to perform the professional services in relation to the type of services to be performed. The executive director, or his ~~or her~~ authorized designee, shall negotiate compensation for performance of the professional services that the commission determines is reasonable.

(State Fair Commission; [80 IAC 2-5-6](#); filed Nov 27, 1991, 2:00 p.m.: 15 IR 450; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: [20071024-IR-080070451RFA](#); filed Mar 18, 2008, 2:19 p.m.: [20080416-IR-080070587FRA](#))

SECTION 23. [80 IAC 2-5-7](#) IS AMENDED TO READ AS FOLLOWS:

**[80 IAC 2-5-7](#) Solicitation of sealed bids; public notice**

**Authority:** [IC 15-1.5-2-8](#)

**Affected:** [IC 15-1.5-2](#)

Sec. 7. (a) This section applies only to commission works contracts bid under section 2 of this ~~chapter.~~ **rule.**

(b) The consulting engineer shall solicit sealed bids by public notice inserted once each week for two (2) successive weeks before the final date of submitting bids in:

- (1) one (1) newspaper of general circulation in Marion County, Indiana; and
- (2) if any part of the project is located in an area outside of Marion County, Indiana, one (1) newspaper of general circulation in that area.

The ~~executive director~~ **procurement officer** shall designate the newspapers for these publications. The ~~executive director~~ **procurement officer** may designate different newspapers according to the nature of the project and may direct that additional notices be published. The procurement department shall also solicit sealed bids for commission works projects by sending notices by mail to prospective contractors known to the procurement department, and by posting notices on a public bulletin board in its office at least seven (7) days before the final date for submitting bids for the commission works project.

(State Fair Commission; [80 IAC 2-5-7](#); filed Nov 27, 1991, 2:00 p.m.: 15 IR 450; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: [20071024-IR-080070451RFA](#); filed Mar 18, 2008, 2:19 p.m.: [20080416-IR-080070587FRA](#))

SECTION 24. [80 IAC 2-5-8](#) IS AMENDED TO READ AS FOLLOWS:

**[80 IAC 2-5-8](#) Copies of bids or quotations; files; public records**

**Authority:** [IC 15-1.5-2-8](#)

**Affected:** [IC 5-14-3](#); [IC 5-15-5.1](#); [IC 15-1.5-2](#)

Sec. 8. (a) In order to preserve the integrity of bids or quotations, the procurement department shall make a copy of each bid or quotation:

- (1) as soon as possible after the bids or quotations are opened; and
- (2) before they may be inspected and copied by the public under [IC 5-14-3](#).

In making these copies, the procurement department is required to copy only those portions of the bids or quotations ~~which,~~ **that,** if altered, would affect the integrity of the bid or quotation. The procurement department may make these copies by means of microfilm ~~re~~ **electronic media** or by any other means that the ~~executive director~~ **procurement officer** may specify.

(b) The procurement department shall keep in a file all original bids or quotations and all documents pertaining to the award of a commission works contract or a professional services contract.

(c) The:

(1) copies required by subsection (a); and ~~the~~

(2) files required by subsection (b);

are public records under [IC 5-14-3](#). The procurement department shall retain these copies and files according to retention schedules established for these records under [IC 5-15-5.1](#).

(State Fair Commission; [80 IAC 2-5-8](#); filed Nov 27, 1991, 2:00 p.m.: 15 IR 450; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: [20071024-IR-080070451RFA](#); filed Mar 18, 2008, 2:19 p.m.: [20080416-IR-080070587FRA](#))

SECTION 25. [80 IAC 2-5-9](#) IS AMENDED TO READ AS FOLLOWS:

**[80 IAC 2-5-9](#) Commencement of warranty period**

Authority: [IC 15-1.5-2-8](#)

Affected: [IC 15-1.5-2](#)

Sec. 9. Each commission works contract must require that all warranty periods applying to work performed under the contract commence ~~no~~ **not** later than the date that work under the contract is substantially completed.

(State Fair Commission; [80 IAC 2-5-9](#); filed Nov 27, 1991, 2:00 p.m.: 15 IR 451; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: [20071024-IR-080070451RFA](#); filed Mar 18, 2008, 2:19 p.m.: [20080416-IR-080070587FRA](#))

SECTION 26. [80 IAC 2-5-10](#) IS AMENDED TO READ AS FOLLOWS:

**[80 IAC 2-5-10](#) Void contracts**

Authority: [IC 15-1.5-2-8](#)

Affected: [IC 15-1.5-2](#)

Sec. 10. All commission works contracts not let in conformity with this ~~chapter~~ **rule** are void.

(State Fair Commission; [80 IAC 2-5-10](#); filed Nov 27, 1991, 2:00 p.m.: 15 IR 451; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: [20071024-IR-080070451RFA](#); filed Mar 18, 2008, 2:19 p.m.: [20080416-IR-080070587FRA](#))

SECTION 27. [80 IAC 2-6-1](#) IS AMENDED TO READ AS FOLLOWS:

**[80 IAC 2-6-1](#) Sealed bids; opening procedures; time to submit bids**

Authority: [IC 15-1.5-2-8](#)

Affected: [IC 15-1.5-2](#)

Sec. 1. (a) All bids shall be sealed in an envelope when submitted to the commission's consulting engineer.

(b) The consulting engineer shall open bids in public and read them aloud at the time and place designated in the instructions. Contractors and all other members of the public are entitled to attend bid openings. Before contractors and other members of the public are permitted to inspect and copy bids, the procurement department shall copy bids ~~are as~~ required under [80 IAC 2-5-8](#).

(c) The consulting engineer may not require any contractor to submit its bid at any time earlier than the time specified in the instructions for opening of bids.

(State Fair Commission; [80 IAC 2-6-1](#); filed Nov 27, 1991, 2:00 p.m.: 15 IR 451; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: [20071024-IR-080070451RFA](#); filed Mar 18, 2008, 2:19 p.m.: [20080416-IR-080070587FRA](#))



SECTION 28. [80 IAC 2-7-1](#) IS AMENDED TO READ AS FOLLOWS:

**[80 IAC 2-7-1](#) Applicability**

**Authority:** [IC 15-1.5-2-8](#)

**Affected:** [IC 15-1.5-2](#)

Sec. 1. The executive director, or as directed by the commission, may apply this ~~chapter rule~~ to commission works projects with an estimated cost less than the amounts specified in section 2 or 7 of this ~~chapter~~. **rule.**

*(State Fair Commission; [80 IAC 2-7-1](#); filed Nov 27, 1991, 2:00 p.m.: 15 IR 452; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: [20071024-IR-080070451RFA](#); filed Mar 18, 2008, 2:19 p.m.: [20080416-IR-080070587FRA](#))*

SECTION 29. [80 IAC 2-7-2](#) IS AMENDED TO READ AS FOLLOWS:

**[80 IAC 2-7-2](#) Contract provisions for retainage of payments; escrow accounts and agreements**

**Authority:** [IC 15-1.5-2-8](#)

**Affected:** [IC 15-1.5-2](#)

Sec. 2. (a) If the cost of a commission works project is one hundred thousand dollars (\$100,000) or more, the consulting engineer shall include, as part of the commission works contract, provisions for the retainage of portions of payments by the commission to the contractor, by the contractor to subcontractors, and for the payment of subcontractors. The contract must provide that the commission may withhold from the contractor sufficient funds from the contract price to pay subcontractors as provided in section 4 of this ~~chapter~~. **rule.**

(b) A commission works ~~contracts~~ **contract** and contracts between contractors and subcontractors, if portions of the commission works contract are subcontracted, must include a provision that at the time any retainage is withheld, the commission or the contractor, as the case may be, ~~shall~~ **may** place the retainage in an escrow account with:

- (1) a bank;
- (2) a savings and loan institution;
- (3) the state of Indiana; or
- (4) an instrumentality of the state of Indiana;

as escrow agent. The parties to the contract shall select the escrow agent by mutual agreement. The parties to the agreement shall enter into a written agreement with the escrow agent.

(c) The escrow agreement must provide the following:

- (1) The escrow agent shall promptly invest all escrowed principal in the obligations that the escrow agent selects, in its discretion.
- (2) The escrow agent shall hold the escrowed principal and income until it receives notice from the executive director and the contractor or the contractor and subcontractor specifying the:
  - (A) percentage of the escrowed principal to be released from the escrow; and ~~the~~
  - (B) persons to whom this percentage is to be released.

When it receives this notice, the escrow agent shall promptly pay the designated portion of escrowed principal and the same proportion of the escrowed income to the persons designated in the notice.

(3) The escrow agent shall be compensated for its services as the parties may agree. The compensation shall be a commercially reasonable fee commensurate with fees being charged at the time the escrow fund is established for the handling of escrow accounts of like size and duration. The fee must be paid from the escrowed income of the escrow account.

(d) The escrow agreement may include other terms and ~~conditions~~ **conditions** that are not inconsistent with subsection (c). Additional provisions may include provisions:

- (1) authorizing the escrow agent to commingle the escrowed funds held under other escrow agreements; and ~~provisions~~
- (2) limiting the liability of the escrow agent.

(State Fair Commission; [80 IAC 2-7-2](#); filed Nov 27, 1991, 2:00 p.m.: 15 IR 452; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: [20071024-IR-080070451RFA](#); filed Mar 18, 2008, 2:19 p.m.: [20080416-IR-080070587FRA](#))

SECTION 30. [80 IAC 2-7-6](#) IS AMENDED TO READ AS FOLLOWS:

**[80 IAC 2-7-6](#) Payment bonds**

**Authority:** [IC 15-1.5-2-8](#)

**Affected:** [IC 15-1.5-2](#)

Sec. 6. (a) The commission shall require the contractor to execute a good and sufficient payment bond to the commission in an amount equal to one hundred percent (100%) of the total contract price. The bond shall include at least the following provisions:

- (1) The contractor **and** its successors and assigns, ~~whether by operation of law or otherwise,~~ and all subcontractors **and** their successors and assigns, whether by operation of law or otherwise, shall pay all indebtedness that may accrue to any person on account of any labor or service performed or materials furnished in relation to the commission work.
- (2) The bond shall directly ensure to the benefit of subcontractors, laborers, suppliers, and those performing service or who may have furnished or supplied labor, material, or service in relation to the commission work.
- (3) No change, modification, omission, or addition in or to the terms or conditions of the contract, plans, specifications, drawings, or profile or any irregularity or defect in the contract or in the procedures preliminary to the letting and awarding of the contract shall affect or operate to release or discharge the surety in any way.
- (4) The provisions and conditions of this ~~chapter~~ **rule** shall be a part of the terms of the contract and bond.

(b) The commission may:

- (1) permit the bond given by the contractor to provide for incremental bonding in the form of multiple or chronological bonds that, if taken as a whole, equal the total contract price; **and**

~~(c) The commission may~~ (2) accept bonds provided on forms:

- (A) specified by the commission; or ~~on forms~~
- (B) given by surety companies.

~~(d)~~ (c) The commission shall:

- (1) hold the bond of a contractor for the use and benefit of any claimant having an interest in it and entitled to its benefits; **and**

~~(e) The commission shall~~ (2) not release sureties of a contractor until the expiration of one (1) year after the final settlement with the contractor.

(State Fair Commission; [80 IAC 2-7-6](#); filed Nov 27, 1991, 2:00 p.m.: 15 IR 453; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: [20071024-IR-080070451RFA](#); filed Mar 18, 2008, 2:19 p.m.: [20080416-IR-080070587FRA](#))

SECTION 31. [80 IAC 2-7-7](#) IS AMENDED TO READ AS FOLLOWS:

**[80 IAC 2-7-7](#) Performance bonds**

**Authority:** [IC 15-1.5-2-8](#)

**Affected:** [IC 5-16-5.5](#); [IC 15-1.5-2](#)

Sec. 7. (a) The commission shall require the contractor to execute a good and sufficient performance bond to the commission in an amount equal to one hundred percent (100%) of the total contract price on all contracts over one hundred thousand dollars (\$100,000) in accordance with [IC 5-16-5.5](#). The bond shall include at least the following provisions:

- (1) The contractor shall well and faithfully perform the contract.
- (2) No change, modifications, omission, or addition in or to the terms or conditions of the contract, plans, specifications, drawings, or profile or any ~~irregularity~~ **irregularity** or defect in the contract or in the procedures preliminary to the letting and awarding of the contract shall affect or operate to release or discharge the surety

in any way.

(3) The provisions and conditions of this rule shall be a part of the terms of the contract and bond.

(b) The commission may:

(1) permit the bond given by the contractor to provide for incremental bonding in the form of multiple or chronological bonds that, if taken as a whole, equal the total contract price; **and**

~~(c) The commission may~~ (2) accept bonds provided on forms:

(A) specified by the commission; or ~~on forms~~

(B) given by surety companies.

~~(d)~~ (c) The commission shall not release sureties of a contractor until the expiration of one (1) year after the final settlement with the contractor.

(State Fair Commission; [80 IAC 2-7-7](#); filed Nov 27, 1991, 2:00 p.m.: 15 IR 453; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: [20071024-IR-080070451RFA](#); filed Mar 18, 2008, 2:19 p.m.: [20080416-IR-080070587FRA](#))

SECTION 32. [80 IAC 2-7-10](#) IS AMENDED TO READ AS FOLLOWS:

**[80 IAC 2-7-10](#) Claims of subcontractors and suppliers; verification; notice to contractors and sureties; actions upon bonds**

Authority: [IC 15-1.5-2-8](#)

Affected: [IC 15-1.5-2](#)

Sec. 10. (a) In order to:

(1) receive payment under section 9 of this rule; or ~~to~~

(2) proceed against the bond of the contractor required under section 6 of this rule;

any subcontractor or supplier making a claim for payment on account of having performed any labor or having furnished any material or service in relation to a commission works project must file a verified claim with the commission within sixty (60) days from the last labor performed, last material furnished, or last service rendered. The claim shall state the amount due and owing to the person and shall ~~five~~ **give** as much detail explaining the claim as possible. The commission shall notify the contractor of any filed claims before taking action under section 9 of this rule.

(b) The claimant may not file suit against the contractor's surety on the contractor's bond until the expiration of thirty (30) days after filing of the claim with the commission. If the claim is not paid in full at the expiration of the thirty (30) day period, the claimant may bring an action in a court of competent jurisdiction in the claimant's own name upon the bond.

(State Fair Commission; [80 IAC 2-7-10](#); filed Nov 27, 1991, 2:00 p.m.: 15 IR 454; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: [20071024-IR-080070451RFA](#); filed Mar 18, 2008, 2:19 p.m.: [20080416-IR-080070587FRA](#))

SECTION 33. [80 IAC 2-8-1](#) IS AMENDED TO READ AS FOLLOWS:

**[80 IAC 2-8-1](#) Prevailing scale of wages; payment**

Authority: [IC 15-1.5-2-8](#)

Affected: [IC 5-16-7-1](#); [IC 5-16-7-3](#); [IC 15-1.5-2](#)

Sec. 1. (a) Any:

(1) firm;

(2) individual;

(3) partnership;

(4) corporation; or

(5) contractor;

~~which that~~ is hereafter awarded a contract by this commission for the construction of any commission ~~work works~~ project with an estimated cost in excess of ~~fifteen~~ **one hundred fifty** thousand dollars (~~\$15,000~~), (**\$150,000**), and any subcontractor thereon, shall be required to pay for each class of work on ~~such the~~ project a scale of wages ~~which that~~ shall in no case be less than the prevailing scale of wages being paid in the immediate locality for such class of work as determined by the appropriate committee of state government in accordance with [IC 5-16-7-1](#).

(b) The commission, in soliciting bids for any such contracts, shall include a schedule of the wages to be paid to such laborers, ~~workmen, workers,~~ or mechanics as a part of the bid, proposal, or quotation documentation required under [80 IAC 2-5](#). ~~Such The~~ schedule shall be filed before any work is performed on ~~such the~~ contract or subcontract, provided: ~~such~~

**(1) the** scale shall not be less than the scale determined as provided in **this** section; ~~4 of this rule; provided further, and~~

**(2)** that nothing in this rule provided shall prevent ~~such the~~ contractor or subcontractor from paying a higher rate of wages ~~then than~~ set out in the schedule of wages filed by him **or her**.

(c) A contractor or subcontractor who knowingly fails to pay the rate of wages determined under this ~~chapter rule~~ and in accordance with [IC 5-16-7](#) shall be subject to the provisions of [IC 5-16-7-3](#) and all the conditions thereof.

*(State Fair Commission; [80 IAC 2-8-1](#); filed Nov 27, 1991, 2:00 p.m.: 15 IR 455; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: [20071024-IR-080070451RFA](#); filed Mar 18, 2008, 2:19 p.m.: [20080416-IR-080070587FRA](#))*

SECTION 34. [80 IAC 3-1-1.1](#) IS ADDED TO READ AS FOLLOWS:

#### **[80 IAC 3-1-1.1](#) Definitions**

Authority: [IC 15-1.5-2-8](#)

Affected: [IC 15-1.5-1-10](#); [IC 35-41-1-23](#)

Sec. 1.1. (a) "Property" has the meaning set forth in [IC 15-1.5-1-10](#).

(b) "Worthless property" means an item considered to not have value or to be worthless property if the value of the property is less than the estimated costs of the sale and transportation of the property.

*(State Fair Commission; [80 IAC 3-1-1.1](#); filed Mar 18, 2008, 2:19 p.m.: [20080416-IR-080070587FRA](#))*

SECTION 35. [80 IAC 3-1-2](#) IS AMENDED TO READ AS FOLLOWS:

#### **[80 IAC 3-1-2](#) Methods of disposal**

Authority: [IC 15-1.5-2-8](#)

Affected: [IC 6-2.5-2](#); [IC 15-1.5-2](#); [IC 20-18-2-12](#); [IC 36-1-2-17](#)

Sec. 2. (a) One (1) or more of the following methods may be used either singularly or in combination for the disposal of property owned by the commission:

- (1) Competitive sealed bid.
- (2) Public sale or auction.
- (3) Sale for reclamation or recycling.
- (4) Allowance made on another purchase.

**(5) Worthless property may be donated to:**

- (A) a charitable corporation;**
- (B) an educational entity or a school corporation (as defined by [IC 36-1-2-17](#)); or**
- (C) nonpublic schools (as defined in [IC 20-18-2-12](#)).**

**(6) Worthless property with no intrinsic value or worth may be thrown away.**

(b) Regardless of the selected method of disposal, detailed listings of property to be disposed shall be

maintained within the files of the commission.

(c) The proceeds derived from any of the selected methods of disposal shall be directly deposited in the general operating fund of the commission. The commission may further designate:

- (1) a specific fund under the general operating fund to which proceeds may be deposited; and
- (2) expenditures of proceeds from the specified fund.

(d) Disposal of commission property shall be in accordance with [80 IAC 3-2](#).

(e) The disposal of property owned by the commission may be subject to the applicable state gross retail tax as outlined in [IC 6-2.5-2](#).

*(State Fair Commission; [80 IAC 3-1-2](#); filed Nov 27, 1991, 2:00 p.m.: 15 IR 455; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: [20071024-IR-080070451RFA](#); filed Mar 18, 2008, 2:19 p.m.: [20080416-IR-080070587FRA](#))*

SECTION 36. [80 IAC 4-1-4](#) IS AMENDED TO READ AS FOLLOWS:

**[80 IAC 4-1-4](#) Requirements and utilization of inflatable displays and devices**

**Authority:** [IC 15-1.5-2-8](#)

**Affected:** [IC 9-24-1](#); [IC 9-24-7](#); [IC 15-1.5-2](#)

Sec. 4. (a) The purpose of this section is to establish uniform and standard guidelines for the use and display of the various forms of inflatable devices typically used for advertising and similar functions during either indoor or outdoor events on the Indiana state fairgrounds.

(b) The following definitions apply to this section:

(1) "Ground based device" means any inflatable device ~~which~~ **that** is:

(A) mounted or secured to the ground by means of:

- (i) stakes;
  - (ii) rods; or
  - (iii) other similar materials; and ~~is~~
- (B) not intended to be airborne.

(2) "Inert gas" means any form of gas that is not subject to flammability from:

- (A) spark;
- (B) flame; or
- (C) compression; or
- (D) expansion;

such as helium gas.

(3) "Inflatable" means any device that:

- (A) requires the use of air or gas that will cause the device to expand into a recognizable form or shape; and
- (B) is intended to attract attendance to displays or conveys an advertising message.

(4) "Nontethered device" means any inflatable device **that**:

- (A) ~~is~~ intended for airborne use; ~~and~~
- (B) is not controlled or attached by any means to ground structures; and
- (C) has no restriction of movement or flight.

(5) "Piloted" means any airborne inflatable device ~~which~~ **that** requires a provision that will provide control of the device in respect to its:

- (A) height;
- (B) speed; and
- (C) direction.

(6) "Tethered device" means any inflatable device **that is** intended for airborne use but is secured by means of:

- (A) rope;
- (B) chain;
- (C) polyester line; or
- (D) other similar means;

to a fixed structure firmly attached to the ground to restrict movement or flight.

(c) This section does not apply to any of the following:

(1) Small balloons **that are:**

(A) intended to be either sold or distributed to the general public; and ~~are~~

(B) not capable of holding greater than one (1) cubic foot of air or inert gas when fully inflated.

(2) Hot air balloons that are piloted either tethered or nontethered and intended for sport or recreational purposes or are a part of a competitive event or special event not directly intended to be of an advertising nature.

(3) This section does not apply to any inflatable device that is less than three (3) feet in length when fully inflated.

(d) The following restrictions apply for the use of inflatable devices:

(1) No inflatable device may be tethered or airborne within fifty (50) yards of the outside perimeter of the racetrack.

(2) No airborne inflatable device may be allowed to be extended when tethered higher than one hundred (100) feet above the ground, nor shall ~~such~~ **the** tethering lines be extended beyond one hundred (100) feet in length.

(3) No airborne inflatable device may be allowed to become airborne regardless of subdivision (2) if the device or its tether may come in contact with any power, telephone, cable, or ~~any~~ other overhead wiring or cabling that traverses the area. Airborne inflatable devices may be allowed to be airborne so long as the tethering and the device will not contact any overhead wiring or cabling when tethering is fully extended.

(4) No airborne inflatable device may be allowed within the confines on the racetrack area during periods when harness or horse racing events or training or exercising will be occurring.

(5) No inflatable device tethered, nontethered, or ground based will be inflated with gas ~~which~~ **that** is:

(A) considered volatile or flammable by nature; or ~~is~~

(B) subject to flame or explosive reaction that may be induced by:

(i) static electrical charge;

(ii) friction; or

(iii) open flame.

(e) Any company, organization, or individual desiring to utilize an inflatable device as a part of their display, whether airborne or directly attached to the ground, must make application to the state fair commission's ~~director of concessions~~ **operations department manager**. Any application must include the following information:

(1) **The** type and size of the inflatable device.

(2) **An** indication of whether the inflatable device is ground based or tethered.

(3) **The** overall length (height) of any inflatable device that is intended to be displayed. If an inflatable device is intended to be airborne, **the** overall length (height), including tethering and the actual device.

(4) **A** photograph of the inflatable device fully inflated.

(5) **An** indication of the hours the device will be inflated (from \_\_\_\_ to \_\_\_\_.) and of the hours the device will be deflated.

(f) The information requested in subsection (e) is additional to any other applications for exhibit space or other applications currently in place.

(g) If the inflatable device is a part of a display for which a sponsorship program or relationship is an integral part thereof, the application may be coordinated through the marketing director ~~prior to~~ **before** submission to the ~~concession director~~ **operations department manager**.

(h) The executive director retains the right to approve or reject any request or application for the use of any inflatable device that does not comply with subsection (d) or (e).

(i) If the inflatable device is:

(1) a ground based device; and ~~is~~

(2) kept inflated by external or internal blowers;

the user must ensure that adjacent areas will not be disturbed or interfered **with** at any time.

(j) The state fair commission, the state fair board, and their associated staff and personnel are not responsible



for the condition of any inflatable device that is either inflated or deflated for storage during periods when the device is not in use or unattended.

**(k) Mylar or metallic type balloons are prohibited on the fairgrounds.**

(State Fair Commission; [80 IAC 4-1-4](#); filed Aug 9, 1993, 10:00 a.m.: 16 IR 2810; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: [20071024-IR-080070451RFA](#); filed Mar 18, 2008, 2:19 p.m.: [20080416-IR-080070587FRA](#))

SECTION 37. [80 IAC 4-2-2](#) IS AMENDED TO READ AS FOLLOWS:

**[80 IAC 4-2-2](#) Speed limit**

**Authority:** [IC 15-1.5-2-8](#)

**Affected:** [IC 15-1.5-2](#)

Sec. 2. The speed limit on any:

- (1) road;
- (2) lot;
- (3) alley; or
- (4) other way;

on the property under the control and jurisdiction of the state fair commission that may be used by vehicular conveyance is ~~fifteen (15)~~ **twenty (20)** miles per hour. Local city, county, and state police agencies have the right and full abilities to enforce the speed limit on the grounds.

(State Fair Commission; [80 IAC 4-2-2](#); filed Aug 9, 1993, 10:00 a.m.: 16 IR 2812; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: [20071024-IR-080070451RFA](#); filed Mar 18, 2008, 2:19 p.m.: [20080416-IR-080070587FRA](#))

SECTION 38. [80 IAC 4-2-3](#) IS AMENDED TO READ AS FOLLOWS:

**[80 IAC 4-2-3](#) No parking zones**

**Authority:** [IC 15-1.5-2-8](#)

**Affected:** [IC 15-1.5-2](#)

Sec. 3. The following areas are identified and designated as no parking zones, and parking in these areas ~~may~~ **shall** result in the impounding and towing of that vehicle:

~~(1) Fire lanes.~~

**(1) No parking zones identified by painted stripes or signage.**

~~(2) Lawn and grass areas immediately adjacent to any buildings. except for the area of the racetrack infield, along outer perimeter fence lines, or other designated grass areas specifically designated as parking zones.~~

~~(3) Within twenty (20) feet of any pedestrian or vehicular:~~

~~(A) entrance or exit gate; and pedestrian or vehicular~~

~~(B) tunnel ways.~~

~~(4) Any prepared surfaces intended to be used for pedestrian foot traffic, ramps, or sidewalks.~~

~~(5) In front of building access doors, entrances, or overhead doorways and the ramps, sidewalks, or other approachways thereto.~~

**(5) Areas along or adjacent to median islands.**

~~(6) Any designated loading or unloading docks or zones.~~

(State Fair Commission; [80 IAC 4-2-3](#); filed Aug 9, 1993, 10:00 a.m.: 16 IR 2812; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: [20071024-IR-080070451RFA](#); filed Mar 18, 2008, 2:19 p.m.: [20080416-IR-080070587FRA](#))

SECTION 39. [80 IAC 4-2-4](#) IS AMENDED TO READ AS FOLLOWS:

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**80 IAC 4-2-4 Restricted parking areas**

**Authority:** [IC 15-1.5-2-8](#)

**Affected:** [IC 15-1.5-2](#)

Sec. 4. (a) Areas, such as: fire-lanes

- (1) restricted areas;
- (2) temporary restricted parking areas;
- (3) certain designated no parking zones and handicap parking; or
- (4) handicap unloading zones;

will be clearly marked with either signage, yellow paint, **traffic cones**, barricades, or any combination thereof to clearly indicate that the area is not intended as a parking area or facility. The security or parking department has the responsibility to ensure that when vehicles are parked in a restricted parking zone, the vehicle may be towed out of the restricted area with or without notice of to the owner or operator.

(b) Every reasonable attempt will be made to locate the owner or operator of a vehicle that is parked in a restricted parking area; however, if after a reasonable period of time the owner or operator cannot be located or fails to move the vehicle, the security or parking department will take the necessary steps to remove that vehicle.

(c) **Vehicles may unload product, equipment, etc. at a building, but then must move immediately to one (1) of the following designated areas after unloading:**

- (1) The infield.
- (2) The lot south of 38<sup>th</sup> Street.
- (3) Designated areas on the north side of the fairgrounds.

(d) **All box trucks (not vans) and any trailers must park in one (1) of the following lots:**

- (1) The infield.
- (2) The lot south of 38<sup>th</sup> Street.
- (3) Designated areas on the north side of the fairgrounds.

(State Fair Commission; [80 IAC 4-2-4](#); filed Aug 9, 1993, 10:00 a.m.: 16 IR 2812; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: [20071024-IR-080070451RFA](#); filed Mar 18, 2008, 2:19 p.m.: [20080416-IR-080070587FRA](#))

SECTION 40. [80 IAC 4-2-5](#) IS AMENDED TO READ AS FOLLOWS:

**80 IAC 4-2-5 Handicap parking; loading or unloading areas**

**Authority:** [IC 15-1.5-2-8](#)

**Affected:** [IC 15-1.5-2](#)

Sec. 5. There are restricted areas designated for handicap parking or handicap loading or unloading. ~~Such~~ **The** areas will be clearly and visibly marked with appropriate signage indicating ~~such the~~ **the** areas are restricted to handicap usage. Vehicles that are parked in a handicap restricted area must display an authorized license plate or state issued window sticker that clearly indicates that the vehicle is authorized to use handicap areas. Any vehicle not displaying a handicap sign will not be allowed to use that area.

(State Fair Commission; [80 IAC 4-2-5](#); filed Aug 9, 1993, 10:00 a.m.: 16 IR 2812; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: [20071024-IR-080070451RFA](#); filed Mar 18, 2008, 2:19 p.m.: [20080416-IR-080070587FRA](#))

SECTION 41. [80 IAC 4-2-6](#) IS AMENDED TO READ AS FOLLOWS:

**80 IAC 4-2-6 Signage**

**Authority:** [IC 15-1.5-2-8](#)

**Affected:** [IC 15-1.5-2](#)

Sec. 6. The following signage will be displayed:

- (1) At all vehicular entrances: "**Speed limit: 20 MPH**, parking is available in designated **Parking** areas; ~~Unauthorized Parking in Restricted Areas Handicap, Fire Lanes and No Parking May Result in Vehicle Being improperly parked vehicles will be towed away~~ at owner's expense".
- (2) At all designated no parking zones, "~~No Parking Vehicles Towed at Owner's Expense.~~".
- (3) ~~(2)~~ At handicap parking zones: "Handicap Parking Only". ~~Valid Handicap Identification Required. All Others Towed at the Owner's Expense.~~".
- (4) At handicap loading or unloading zones, "Handicap Loading or Unloading **ONLY**. Limit 15 Minutes. All Others Towed at Owner's Expense."
- (5) At fire lanes, "~~FIRE LANE NO PARKING. Vehicles Will Be Immediately Towed at Owner's Expense.~~". Signage will be placed at the extreme ends of the fire lane zones and spaced at one hundred (100) foot intervals along the fire lane.
- (6) At restricted parking zones, "~~Authorized Parking Stickers and Tickets ONLY. All Others Towed at Owner's Expense.~~".

(State Fair Commission; [80 IAC 4-2-6](#); filed Aug 9, 1993, 10:00 a.m.: 16 IR 2812; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: [20071024-IR-080070451RFA](#); filed Mar 18, 2008, 2:19 p.m.: [20080416-IR-080070587FRA](#))

SECTION 42. [80 IAC 4-3-3](#) IS AMENDED TO READ AS FOLLOWS:

### **[80 IAC 4-3-3](#) Definitions**

**Authority:** [IC 9-30-7-0.5](#); [IC 15-1.5-2-8](#)

**Affected:** [IC 15-1.5-2](#)

Sec. 3. (a) As used in this rule, "electric personal assistive mobility device" means a self-balancing, two (2) nontandem wheeled device that is designed to transport only one (1) person and that has the following:

- (1) An electric propulsion system with average power of seven hundred fifty (750) watts or one (1) horsepower.
- (2) A maximum speed of less than twenty (20) miles per hour when:
  - (A) operated on a paved level surface; ~~when~~
  - (B) powered solely by the propulsion system referred to in subdivision (1); and ~~when~~
  - (C) operated by an operator ~~weighting~~ **weighing** one hundred seventy (170) pounds.

(b) As used in this rule, "motorized cart" means any conveyance that is:

- (1) motor driven, either by gas or electricity; ~~and is~~
- (2) used to carry passengers or equipment; and ~~that is~~
- (3) smaller than normal road type vehicles, such as:
  - (A) cars;
  - (B) recreational vehicles; or
  - (C) trucks.

Motorized carts may be characterized as golf carts, utility carts, or similar forms of vehicles. ~~Motorized cart~~ **The term** includes an electric personal assistive mobility device.

(c) The definition of motorized cart in subsection (a) ~~(b)~~ **does not apply to any of the following:**

- (1) Motorcycles.
- (2) Motor scooters.
- (3) Mopeds.
- (4) Motorized bicycles. ~~or~~
- (5) Three-wheel or four-wheel off-road type vehicles.

(State Fair Commission; [80 IAC 4-3-3](#); filed Aug 9, 1993, 10:00 a.m.: 16 IR 2813; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; filed Jul 7, 2003, 3:30 p.m.: 26 IR 3536; readopted filed Oct 4, 2007, 10:29 a.m.: [20071024-IR-080070451RFA](#); filed Mar 18, 2008, 2:19 p.m.: [20080416-IR-080070587FRA](#))

SECTION 43. [80 IAC 4-3-4](#) IS AMENDED TO READ AS FOLLOWS:

## **80 IAC 4-3-4 Restriction**

**Authority:** IC 15-1.5-2-8

**Affected:** IC 9-24-1-1; IC 15-1.5-2

Sec. 4. Motor scooters, mopeds, motorized bicycles, or three-wheel or four-wheel off-road vehicles **not** meeting the definition of section 3 of this rule are not permitted to be operated at any time on the fairgrounds property **without a valid operator's license under IC 9-24-1-1**.

(State Fair Commission; 80 IAC 4-3-4; filed Aug 9, 1993, 10:00 a.m.: 16 IR 2813; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: 20071024-IR-080070451RFA; filed Mar 18, 2008, 2:19 p.m.: 20080416-IR-080070587FRA)

SECTION 44. 80 IAC 4-3-5 IS AMENDED TO READ AS FOLLOWS:

## **80 IAC 4-3-5 Procedures for the annual state fair**

**Authority:** IC 9-30-7-0.5; IC 15-1.5-2-8

**Affected:** IC 9-24-1; IC 9-24-7; IC 15-1.5-2

Sec. 5. (a) The procedures in this section ~~will~~ **shall** be utilized during the period of the annual state fair period.

(b) All users of motorized carts shall make application for the acquisition and utilization of motorized carts, whether procured by the administration or privately leased or owned, directly to the executive director of the state fair commission. The executive director shall:

- (1) determine the validity of ~~such~~ **the** applications; and ~~shall~~
- (2) either approve or disapprove the application.

(c) Fair departments must make application through ~~their respective fair board director~~. Applications will be ~~forwarded from the fair board director through~~ the fair board coordinator for approval by the fair board president ~~prior to~~ **before** approval by the executive director.

(d) Motorized carts that are to be leased from a commercial source or are privately owned must have a certificate of insurance submitted with the application for registration. The certificate of insurance shall show coverage of motorized carts for personal liability and property damage. ~~Pursuant to P.L.143-2002, SECTION 10,~~ **Under IC 9-30-7-0.5**, a person who uses an electric personal assistive mobility device upon the fairgrounds shall be excluded from the insurance requirement of this subsection.

(e) Applications by:

- (1) vendors;
- (2) purveyors;
- (3) concessionaires; and
- (4) all exhibitors;

~~must forward applications along with proof of insurance through the fairgrounds director of concessions prior to~~ **operations department manager before** approval of the executive director. ~~Pursuant to P.L.143-2002, SECTION 10,~~ **Under IC 9-30-7-0.5**, a person who uses an electric personal assistive mobility device upon the fairgrounds shall be excluded from the insurance requirement of this subsection.

(f) If the application is approved by the executive director, all approved motorized carts:

- (1) must be registered with the ~~procurement department~~ **concession office**; and
- (2) shall have a certificate of registration affixed to the front of each approved motorized cart.

All motorized carts, whether leased or privately owned, must be registered in this fashion. No certificate of registration will be issued by the ~~procurement department~~ **concession office** without prior approval of the executive director.

~~(g) The fair board coordinator will coordinate with the procurement department for the unloading, storage, and assignment of motorized carts. The procurement department shall assign motorized carts as directed by the fair board coordinator issued according to the schedule established by the fair board coordinator.~~

~~(h)~~ **(g)** Each applicant will be held responsible for:

**(1)** the safe operation of each motorized cart; and ~~for~~

**(2)** ensuring compliance with the provisions of this rule.

Any operator found in violation of this rule shall not be allowed to operate any cart for the remainder of the event.

**(h) An operator of a motorized cart on the fairgrounds shall be a licensed driver under [IC 9-24-1](#) or [IC 9-24-7](#).**

*(State Fair Commission; [80 IAC 4-3-5](#); filed Aug 9, 1993, 10:00 a.m.: 16 IR 2813; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; filed Jul 7, 2003, 3:30 p.m.: 26 IR 3536; readopted filed Oct 4, 2007, 10:29 a.m.: [20071024-IR-080070451RFA](#); filed Mar 18, 2008, 2:19 p.m.: [20080416-IR-080070587FRA](#))*

SECTION 45. [80 IAC 5.1](#) IS ADDED TO READ AS FOLLOWS:

## ARTICLE 5.1. PURPOSE AND SCOPE

### Rule 1. Purpose and Scope

#### [80 IAC 5.1-1-1](#) Purpose and scope

Authority: [IC 15-1.5-2-8](#)

Affected: [IC 4-2-6](#); [IC 15-1.5](#)

**Sec. 1. The commission shall be under the jurisdiction and rules adopted by the state ethics commission under [42 IAC 1](#).**

*(State Fair Commission; [80 IAC 5.1-1-1](#); filed Mar 18, 2008, 2:19 p.m.: [20080416-IR-080070587FRA](#))*

SECTION 46. THE FOLLOWING ARE REPEALED: [80 IAC 2-5-11](#); [80 IAC 5](#).

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